

**L.E., by his next friends and parents,  
SHELLEY ESQUIVEL and  
MARIO ESQUIVEL,**

**Plaintiff,**

**v.**

**BILL LEE, in his official capacity as  
Governor of Tennessee; et al.,**

**KNOX COUNTY BOARD OF  
EDUCATION a/k/a KNOX COUNTY  
SCHOOL DISTRICT; et al.,**

**Defendants.**

**Magistrate Judge Newbern**

Pursuant to L.R. 56.01(b), Defendants Governor Lee, Commissioner Schwinn, Executive Director Morrison, members of the Tennessee State Board of Education, in their official capacities, and the Tennessee State Board of Education (“State Defendants”) provide the following Statement of Undisputed Material Facts.

1. L.E. does not keep track of or record a score when playing golf. (Shelley Esquivel Dep. 37:7-12.)

Case 3:21-cv-00835 Document 55 Filed 10/07/22 Page 1 of 10 PageID #: 1407

2. L.E. has never calculated and does not have a handicap index in golf. (Mario Esquivel Dep. 33:8-16.)

RESPONSE:

3. L.E. and Mario Esquivel primarily play a par-three golf course. (Mario Esquivel Dep. 7:20-23.)

RESPONSE:

4. Par three golf courses have nine holes, and the holes themselves are shorter in distance than an 18-hole golf course. (Mario Esquivel Dep. 7:12-16.)

RESPONSE:

5. When asked to identify the date, location, and score of the last ten (10) rounds of golf played, Plaintiff responded that L.E. had played the following (subject to the objection that “rounds of golf” is vague and adopting an interpretation that the term means the activity of playing 18 holes of golf):

- May 7, 2022, at Knoxville Municipal Golf Course. Plaintiff did not track or record the score.
- November 13, 2021, at Knoxville Municipal Golf Course. Plaintiff did not track or record the score.
- September 23, 2021, at Centennial Golf Course. Plaintiff did not track or record the score.
- July 31, 2021, at Williams Creek Golf Course. Plaintiff did not track or record the score.
- July 13, 2021, at Centennial Golf Course. Plaintiff did not track or record the score.

(Mario Esquivel Dep. 33:17-25; 34:1-13); (Shelley Esquivel Dep. Ex. 1, Int. No. 3); (L.E. Dep. 16:20-23; 17:1-7).

RESPONSE:

6. From January 1, 2022, to July 13, 2022, L.E. played one round of golf. (Mario Esquivel 33:17-25; 34:1-5.)

RESPONSE:

7. L.E. was not a top scorer on the Farragut Middle School girls' golf team and so did not participate in the state or district meets. (Mario Esquivel 43:10-25; 44:1-16.)

RESPONSE:

8. L.E. has not tried out for the Farragut High School boys' golf team or girls' golf team. (Shelley Esquivel Dep. 33:5-8); (Higgins Dep. 94:7-9).

RESPONSE:

9. L.E. and L.E.'s parents are unaware of the dates on which the golf teams' tryouts were held. (Mario Esquivel Dep. 19:19-21); (Shelley Esquivel Dep. 31:10-16); (L.E. Dep. 18:11-13).

RESPONSE:

10. Neither L.E. nor L.E.'s parents spoke to Coach Higgins about L.E.'s desire to try out for the team (Higgins Dep. 36:16-17; 37:7-9; 94:4-6)

RESPONSE:

11. During the course of this lawsuit, an attorney from Knox County offered to let L.E. try out for the golf team and L.E. did not agree to participate in the tryout. (Shelley Esquivel Dep. 33:19-25; 34:1.)

RESPONSE:

### **Farragut High School Golf Team**

12. The Farragut High School boys' golf team won the state championship tournament in 2020. (Higgins Dep. 88:17-21.)

RESPONSE

13. The Farragut High School boys' golf team placed second in the 2021 state regional tournament, and its top four players scored 75, 78, 78, and 80. (Higgins Dep. 88:22; 89:1-5; 90:21-22; 91:1-17; Ex. 7.)

RESPONSE

14. Players who try out for the Farragut High School boys' golf team will need to shoot an average score of 90 or better for 18-walking holes through 3 rounds to make the team. (Higgins Dep. 46:11-15; Ex. 3.)

RESPONSE:

15. Farragut High School does not have a junior varsity golf team. (Higgins Dep. 19:11-15.)

RESPONSE:

16. There is not a separate tryout for the boys' golf team and the girls' golf team. (Higgins Dep. 46:5-7.)

RESPONSE:

17. The Farragut High School boys' golf team and girls' golf team regularly practice and play together. (Higgins Dep. 35:1-5.)

RESPONSE:

18. The Tennessee Secondary Schools Athletic Association ("TSSAA"), which Farragut High School is a member of, sets the number of players who can play in a golf match, and only five (5) boys can play in a match. (Higgins Dep. 38:21-22; 39:1-6; 51:5-16.)

RESPONSE:

19. Farragut High School is a member of the TSSAA and must comply with TSSAA policies. (Bartlett Dep. 85:8-13; Hemmelgarn Dep. 46:8-19.)

RESPONSE:

20. TSSAA's regulations separate several interscholastic sports (including basketball, cross country, golf, tennis, and track and field) into separate divisions for boys and girls. (Hemmelgam Dep. 128:21-22, 129, 130:1-13; Dodgen Dep. Ex. 3- 2022-23 TSSAA Handbook; Bergmeyer Decl. ¶ 3; Ex. 1- TSSAA Sports.)

RESPONSE:

**L.E.'s medical care**

21. Initially, L.E.'s pediatrician had a wait-and-see approach, "meaning wait to see if this is a phase or if it's not, and then to proceed with hormone treatment or whatever the next step was after the age of 18." (Shelley Esquivel Dep. 9:9-21.)

RESPONSE:

22. L.E. has not yet received testosterone therapy and has not had any relevant surgeries. (Shelley Esquivel Dep. 14:10-25; 15:1-5; 79:12-15.)

RESPONSE:

**Defendants**

23. The Tennessee State Board of Education does not receive federal funds for its operations. (Morrison Dep. 42:14-16.)

RESPONSE:

## **Gender Identity**

24. Dr. Melissa Cyperski testified that “there’s an infinite number of gender identities.”

(Cyperski Dep. 50:20-22.)

RESPONSE:

25. Dr. Melissa Cyperski testified that some individuals have “an inner sense of gender that is consistent with male, female, neither, or both, and that that may fluctuate over time.” (Cyperski Dep. 49:21-24.)

RESPONSE:

26. Not all transgender adolescents are diagnosed with gender dysphoria (Cyperski Deposition at 184:22-25, 185:1-2.)

RESPONSE:



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## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this Statement of Undisputed Material Facts has been served through the e-filing system on October 7, 2022, to:

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